

1 advisory board during that relevant period of time, May to  
2 September '91.

3 MR. KLEINER: Yes, sir.

4 JUDGE SIPPEL: Correct? That's your testimony.

5 MR. KLEINER: Yes, sir.

6 JUDGE SIPPEL: All right. Now, it says -- it's  
7 across Ms. Shirley Marcus's name on 25 is crossed off with a  
8 notation no longer in Baltimore. Do you have any first hand  
9 knowledge with respect to that entry? I mean, do you know  
10 whether or not in fact Ms. Shirley Marcus is no longer in  
11 Baltimore?

12 MR. KLEINER: Yeah. At the time, yes. She's  
13 working here in Washington now.

14 JUDGE SIPPEL: Do you know -- what about as of the  
15 time of May to September of 1991?

16 MR. KLEINER: I don't know when she left. When --  
17 if I may ask you a question.

18 JUDGE SIPPEL: Well, if it's for clarification I  
19 can't help you with --

20 MR. KLEINER: No. I don't know when these cross outs  
21 were made. There's a telephone number here and it starts with  
22 410 which might clarify. I don't know when the area codes  
23 were changed but that might help as to when these notations  
24 were made.

25 JUDGE SIPPEL: All right. That's with respect to

1 Ms. Kacy Conley and I know, I think I can take official notice  
2 of the fact that that was done after September of 1991, that  
3 is when the 410 change was made to Baltimore's area code.

4 MR. KLEINER: Then I would guess that these cross  
5 outs or changes were done at some time later than that. These  
6 were the members at the time and we were probably reviewing to  
7 see how we could fill the gaps in the community advisory board  
8 but I can't tell you when that happened.

9 MS. SCHMELTZER: I'm going to move to strike the  
10 portion where the witness said he's guessing.

11 JUDGE SIPPEL: Well, it goes to weight. It goes to  
12 weight but he is correct in terms of bringing my attention to  
13 the fact of that area code number, 410, because I have people  
14 who I contact in Baltimore, family people from time to time so  
15 I'm familiar with that event and my recollection is that it  
16 was some time after 1991. Now, Mr. Howard, if you want to  
17 find a way to firm that up for the record I'll permit you to  
18 do that for clarification and also if there's some  
19 clarification that you could bring with respect to who  
20 prepared this document and when was it prepared. Again, I'm  
21 not saying that you have to call people in from out of town to  
22 do this, but if you have a capability to clarify this, I'd  
23 like you to do it.

24 MR. HOWARD: Your Honor, I know there's testimony in  
25 the record -- it may be in depositions -- that it was the

1 secretary to Mr. Kleiner and Ms. Barr that prepared the  
2 document.

3 JUDGE SIPPEL: Well, if you can find out, I mean, we  
4 have next week. If you can, as I say, without calling people  
5 in from Baltimore, but if you can determine through your  
6 records, do some kind of research back in your office and give  
7 us some explanation on the record next week, I'd like to put  
8 this to rest. But for the time being it's just marked as an  
9 exhibit and it's not going to be received.

10 (Whereupon the document referred to  
11 as Four Jacks Exhibit No. 25 was  
12 rejected.)

13 BY MS. SCHMELTZER:

14 Q Is it correct that people rotate on and off the  
15 community advisory board all the time or did during the period  
16 that you were at the station?

17 A Yes.

18 JUDGE SIPPEL: Let me clarify my ruling. As of this  
19 time I'm denying the motion to introduce 25 into evidence and  
20 it has been rejected but I do -- I'm requiring counsel for  
21 Scripps Howard to seek further clarification on the points  
22 that I told you about. You may proceed, Ms. Schmeltzer.

23 BY MS. SCHMELTZER:

24 Q Mr. Kleiner, were you responsible for the Contact 2  
25 program at WMAR-TV?

1 A Not directly, no.

2 Q Who was directly responsible?

3 A The news director.

4 Q The news director. So I take it that Emily Barr was  
5 not the person directly responsible for that entity, was she?

6 A That's correct.

7 Q Were the people that handled the Contact 2 program  
8 other than the station producer and people you've described in  
9 your exhibit all volunteers?

10 A Other than the station -- yes, other than the  
11 station personnel they were volunteers. It was the National  
12 Council of Jewish Women.

13 Q Was there an orientation period that they went  
14 through?

15 A Yes, there was.

16 Q Was that a two hour orientation?

17 A My recollection is it was a couple of days.

18 Q Well, do you know?

19 A My recollection is it was a couple of days.

20 Q Did the decision as to what Contact 2 programs you  
21 were going to include in broadcasts depend on whether people  
22 said they were willing to appear on the air?

23 A I don't know.

24 Q Was it the volunteers who decided when a case was --  
25 when to open a case and when to close a case?

1 A Would you please describe open and close for me?

2 Q Well, when a case came in was it recorded in some  
3 fashion to your knowledge?

4 A I believe it was, yes.

5 Q And was it the volunteer that did that?

6 A Yes.

7 Q And when a case was closed was that recorded in some  
8 fashion?

9 A I don't know.

10 Q So you don't know who would have been responsible  
11 for that?

12 A No, I don't.

13 Q During your tenure at WMAR-TV and specifically from  
14 May 30, 1991 to September 3, 1991, Mr. Kleiner, were you  
15 involved in any budgeting matters?

16 A I was involved in budgeting matters every day.

17 Q Your testimony at paragraph 24 refers to Attachment  
18 O to Emily Barr's testimony. I'd like you to turn to that  
19 attachment.

20 JUDGE SIPPEL: Let's go off the record until the  
21 witness --

22 (Off the record.)

23 (On the record.)

24 BY MS. SCHMELTZER:

25 Q Now, if you would look at the first page of

1 Attachment O, Mr. Kleiner, it says to Joe Bruno from WPH.

2 A Yes.

3 Q Okay. Was Joe Bruno your chief engineer?

4 A Yes.

5 Q And have you seen this page before?

6 A Yes.

7 Q Did you see this page in July of 1991?

8 A I believe so.

9 Q Was this a draft capital budget? A draft of the  
10 proposed capital budget?

11 A No, this is just a portion of the capital budget  
12 that we submitted for -- If my recollection is correct these  
13 -- this is the first wave of items that, first or second wave  
14 of items that were approved for us to go ahead and take the  
15 next step.

16 Q Well, was this a working draft?

17 A I suppose you could call it a working draft.

18 Q At the bottom it says a formal list including these  
19 items will come from Ken -- I may not be pronouncing this  
20 right -- M-c-N-A-M-S-E. Is that right?

21 A No. It's McNamee.

22 Q McNamee. Did you ever see a formal list including  
23 these items?

24 A No. Let me -- I may have, sorry. I may have.

25 Q Is that formal list including these items included

1 in Attachment O anywhere?

2 A I don't know.

3 Q Would you look through and let us know if it is?

4 A See, each item or group of items or category is put  
5 on a separate sheet so there would be no one list with all  
6 those items on it I don't believe.

7 Q If you look at page SH3-0920 and some of the pages  
8 that follow the first page, are those the separate sheets  
9 you're referring to?

10 A These are the typed --

11 MR. HOWARD: Your Honor, that's an unfair question  
12 as to what -- she hasn't referred to any sheet. She's  
13 referred to a formal list and he's testified that that's not  
14 in there. So I don't -- could she specify the question?

15 MS. SCHMELTZER: I'd be happy to ask the question  
16 again.

17 JUDGE SIPPEL: Yeah. The witness -- I'll sustain  
18 the objection on the basis of clarification, but -- if you  
19 feel the question is not clear enough. But I heard the  
20 witness testify that there were separate sheets for individual  
21 categories of equipment and I think your question is whether  
22 or not those individual sheets that he testified to appear  
23 behind 0919, the several pages starting with 0920.

24 MS. SCHMELTZER: That's correct.

25 BY MS. SCHMELTZER:

1 Q Is that the kind of separate sheet that you're  
2 referring to?

3 A Yes. For instance, 0922 is six wireless microphones  
4 and on the front page, No. 7 is six wireless microphones.

5 Q Okay. So the formal list that's referred to at the  
6 bottom of SH3-0919, is that what's contained on the following  
7 pages?

8 A I don't know.

9 Q Now, if you'd look at SH3-0920, Mr. Kleiner --  
10 JUDGE SIPPEL: Well, before you do that I'd still  
11 like to find out a little bit more about where Mr. Kleiner  
12 fits into the scheme of things.

13 MS. SCHMELTZER: I was going to do that.

14 JUDGE SIPPEL: Were you going to do that?

15 MS. SCHMELTZER: I was going to do that right now.

16 JUDGE SIPPEL: All right. You go ahead, Ms.

17 Schmeltzer.

18 BY MS. SCHMELTZER:

19 Q If you would look at SH3-0920, Mr. Kleiner --

20 A Yes.

21 Q This is one of the capital equipment requests and  
22 the first items listed are two Ford E350 supercargo vans and  
23 there are other items listed there as well. Do you see that?

24 A Yes.

25 Q Okay. It says person submitting, Joe Bruno. That



1 was your chief engineer?

2 A Yes.

3 Q And he has signed that and it's dated September  
4 17th. Was that the date he signed it.

5 A Apparently.

6 Q Okay. And did he submit that to you?

7 A Yes. I signed it after he did.

8 Q Where does the business manager fit into that? He's  
9 listed as well under your name.

10 A He signed it after I did.

11 Q Did -- you all signed it -- Were you all together  
12 when you signed it on September 17th?

13 A I don't know. Usually Joe Bruno would bring it into  
14 me and I would sign it and give it back to him. These were  
15 just the final piece of paper after the entire approval  
16 process. This is just a document to record these items. By  
17 the time you got to this this was not quite but almost after  
18 the fact. You had already gone through the approval process.  
19 You had already gone through the bidding process. You had  
20 already looked at different manufacturers, decided exactly  
21 what you were going to buy before you got to this sheet of  
22 paper.

23 Q Now, looking down at the bottom there, it says  
24 president and there's some initials. Were those Dick  
25 Jansson's initials?

1 A I believe so.

2 Q Okay. And you see the date, September 16, 1991.

3 A Yes, I do.

4 Q It is your understanding that that's when Dick  
5 Jansson would have approved this request?

6 A Yes.

7 Q Now, Mr. Kleiner, am I correct -- it says action and  
8 Mr. Jansson has checked the box approved. Do you see that?

9 A Yes.

10 Q Okay. So is it correct that up until September 16,  
11 1991 Mr. Jansson could have disapproved the request?

12 A He could have disapproved the request on September  
13 20th after he signed it if he wanted to, if we didn't have the  
14 equipment in house.

15 Q And he certainly could have disapproved it on  
16 September 16th, correct?

17 A Could have.

18 Q Now, if you'll turn to the next page, SH3-0921, the  
19 person submitting that was Joe Bruno. Do you see the  
20 signature?

21 A Yes.

22 Q Okay. Did Mr. Bruno submit this capital equipment  
23 request to you on October 17, 1991?

24 A Once again, this is the final document.

25 JUDGE SIPPEL: You know, I wish when you ask him

1 about the -- I'm sorry. I didn't mean to interrupt your  
2 answer, either, but ask him if -- is this the document that  
3 was put before you. Don't categorize what it is, please,  
4 because the document should speak for itself unless the  
5 witness is given some explanation with respect to it, of  
6 course. I'm sorry. I didn't --

7 MR. KLEINER: October 17th is the day I signed it.

8 BY MS. SCHMELTZER:

9 Q You signed SH3-0921 on October 17th, 1991?

10 A Yes.

11 Q Okay. And did you then forward this to Mr. Jansson  
12 for his approval?

13 A Bob Imhoff the business manager or Joe Bruno would  
14 have forwarded it. I did not.

15 Q And did Mr. Jansson sign this on October 22, 1991?

16 A It would appear that way.

17 Q And so is it correct that Mr. Jansson could have  
18 disapproved this on October 22, 1991?

19 A I would think so.

20 JUDGE SIPPEL: With respect to -- I want to go back  
21 again to this 0919, the first document in time.

22 MR. KLEINER: Yes, sir.

23 JUDGE SIPPEL: Did you actually, what if any  
24 participation did you have in selecting some or all of these  
25 first 13 items?

1 MR. KLEINER: I had a part in a list of items was  
2 put together that was probably four or five pages -- I don't  
3 recall. We call it a wish list, anything that we would like  
4 to have. And then reality sets in and you say, okay, that's  
5 your wish list, now what is it that's reasonable and we  
6 crossed out things that weren't reasonable, said okay we're  
7 not going to ask for that and we're not going to ask for that  
8 and we culled it down to things that we would like to have and  
9 things that we needed to have and prioritized it.

10 BY MS. SCHMELTZER:

11 Q Mr. Kleiner, if I could turn your attention for a  
12 moment to SH3-0926 and the pages that follow that,  
13 specifically through SH3-0930.

14 A Okay.

15 Q Is that your final wish list?

16 A The final -- I believe it's our final submission  
17 list, yes.

18 Q Let me refer you for a moment to SH3-0924. Do you  
19 see that?

20 A Not yet.

21 Q It starts four news cars up at the top.

22 A Yes.

23 Q Okay. And is -- do you recall signing this capital  
24 equipment request on October 14, 1991?

25 A It would appear that I did.

1 Q Now, if you'll go up and look at the capital budget  
2 line, it says amount 70,000, grand total \$52977.54

3 A I don't see that. I'm sorry. Oh, I see it, okay.

4 Q What is the difference between those two figures?

5 A 17,000 --

6 Q No, I know that. What does the amount represent and  
7 what does the grand total represent?

8 A The amount is what was budgeted I believe and the  
9 grand total is what we ended up with.

10 Q What did you actually spend? Was that the 52 --

11 A The purchasing price if you look at the top is  
12 52,158 it looks like.

13 JUDGE SIPPEL: I don't really think we have to get  
14 into this narrow accounting.

15 MS. SCHMELTZER: Okay, fine.

16 JUDGE SIPPEL: Can we move to something else?

17 MS. SCHMELTZER: Yeah. I'm finished with that area,  
18 Your Honor. Excuse me one moment.

19 JUDGE SIPPEL: Let me -- just ask another  
20 clarification question on this attachment. Apparently 0926  
21 concerns the '92 budget items.

22 MR. KLEINER: Yes, sir.

23 JUDGE SIPPEL: Is that correct?

24 MR. KLEINER: Yes, sir.

25 JUDGE SIPPEL: So that really has nothing to do at

1 all with anything that was acquired or was to be acquired in  
2 1991, is that correct?

3 MR. KLEINER: Not necessarily. It's called the '92  
4 budget because we would purchase toward the end of the year  
5 and we were gearing up, but some of the stuff was done in  
6 maybe --

7 JUDGE SIPPEL: I was trying to draw a distinction  
8 between that -- I wasn't trying to put answers in your mouth.  
9 I was trying to draw a distinction between what came after  
10 0926 which is subject '92 final cap budget and then what came  
11 before that which was the draft for July 18th, 1991 --

12 MR. KLEINER: This was --

13 JUDGE SIPPEL: -- which had notations of 1991.

14 MR. KLEINER: You are correct. This is a '92 cap  
15 budget. This is the 1992.

16 JUDGE SIPPEL: Starting with 0926.

17 MR. KLEINER: Correct, yes.

18 JUDGE SIPPEL: So what we're really focused on in  
19 terms of -- well, you don't have to agree with me on this but  
20 what I want to know is in between May 30th and September 30th,  
21 1991 which of the items on page 0919 were actually acquired  
22 and were in operation at the station?

23 MS. SCHMELTZER: Your Honor, could we amend that to  
24 September 3, 1991?

25 JUDGE SIPPEL: Well, I want to start off with

1 September 30. You want to say -- well, all right. Let me  
2 rephrase my question then. First category is any item that  
3 you can identify that was on board and in operation on or  
4 before the 3rd of September of '91.

5 MR. KLEINER: I don't know.

6 JUDGE SIPPEL: And how about on or before the 30th  
7 of September '91?

8 MR. KLEINER: I really don't know.

9 JUDGE SIPPEL: All right. Ms. Schmeltzer?

10 MS. SCHMELTZER: I have no further questions, Your  
11 Honor.

12 JUDGE SIPPEL: You are finished with the witness?

13 MS. SCHMELTZER: Yes, I am.

14 JUDGE SIPPEL: Mr. Zauner?

15 MR. ZAUNER: I have a couple questions, Your Honor,  
16 if I may have a second here to --

17 JUDGE SIPPEL: Go off the record.

18 (Off the record.)

19 JUDGE SIPPEL: Back on the record.

20 CROSS EXAMINATION

21 BY MR. ZAUNER:

22 Q Mr. Kleiner, may I call your attention to your  
23 Exhibit 2, page SH2-11, paragraph 28? There you indicate that  
24 you supervised the ascertainment efforts of other station  
25 personnel. What did you actually do to supervise the

1 | ascertainment efforts of other station personnel during the  
2 | period May 30th, 1991 to September 3rd, 1991?

3 |       A     I questioned people as to what they were doing,  
4 | where they were going, who they were talking to and what  
5 | issues were they finding out that we should be aware of.

6 |       Q     Did you instruct any station employees to conduct  
7 | any particular interviews?

8 |       A     Not that I recall.

9 |       Q     Would it be your habit to suggest perhaps to station  
10 | employees that they interview people associated with certain  
11 | organizations in the Baltimore community?

12 |       A     I could, yes.

13 |       Q     This would be something that you would do as an on-  
14 | going basis in your job?

15 |       A     Yes, sir, yes.

16 |       Q     But you have no recollection of any specific --

17 |       A     No, I do not.

18 |       Q     -- example during the May 30th to September 3rd,  
19 | 1991 time period?

20 |       A     No, I'm sorry, I don't.

21 |       Q     Let me call your attention to Attachment F to Emily  
22 | Barr's testimony. That's Exhibit 3, the thick book. Did you  
23 | review the station's issues and programs lists on a regular  
24 | basis?

25 |               MS. SCHMELTZER: Objection, asked and answered, Your



1 Honor.

2 JUDGE SIPPEL: Well, I'm going to overrule --

3 MR. ZAUNER: It's a preliminary question, Your

4 Honor.

5 JUDGE SIPPEL: I understand. You go ahead. I'll  
6 overrule the objection.

7 MR. KLEINER: No, I did not review the list per se,  
8 no, sir, not on a regular basis.

9 JUDGE SIPPEL: That answer does something for me.

10 BY MR. ZAUNER:

11 Q Did you give any directions with regard to its  
12 preparation?

13 A No, I did not.

14 Q Did you have any input in determining which issues  
15 would be listed in the issues and programs list, specifically  
16 for example page SH3-03339?

17 A A lot of people had some input but it was indirect  
18 because it came through ascertainments. It came through news  
19 stories. It came through things we found out about the  
20 community.

21 Q Was it your understanding --

22 JUDGE SIPPEL: I don't think he quite answered your  
23 question, Mr. Zauner. You want to ask that again? You had a  
24 very specific question about his participation.

25 MR. ZAUNER: That has escaped me, Your Honor.

1 UNIDENTIFIED SPEAKER: Did he have an input.

2 BY MR. ZAUNER:

3 Q Oh, did you have an input into the preparation of  
4 the issues that are included on this list?

5 A I said not directly.

6 JUDGE SIPPEL: But you did have an input?

7 MR. KLEINER: I did have an input, yes.

8 JUDGE SIPPEL: Could you describe what that input  
9 was?

10 MR. KLEINER: The list -- you mean --

11 JUDGE SIPPEL: Your input now.

12 MR. KLEINER: The list came from many sources and  
13 one of those sources was me.

14 JUDGE SIPPEL: It is your understanding that this  
15 list is a list of the most important issues ascertained to  
16 exist in the community by the station?

17 MR. KLEINER: That is my understanding.

18 BY MR. ZAUNER:

19 Q Let me call your attention to -- back to your  
20 testimony, Exhibit 2, SH2-9. At the top of that page at  
21 paragraph 23 you indicate that Scripps Howard corporate  
22 management encouraged the regular review of the station's  
23 programming to determine if it was responsive to community  
24 needs and interests. Were you involved in that process of  
25 determining whether the station's programming was responsive

1 to the community needs and interests?

2 A Yes.

3 Q What criteria did you use in making that  
4 determination?

5 A This -- we didn't sit and say, oh, let's have  
6 meeting today to see if our program is responsive. This was  
7 an on-going process, fluid all the time, talking all the time  
8 looking at where we were going, changing -- not changing  
9 programs because our program schedule was set and it was  
10 working, talking about how we could improve public affairs  
11 shows, how we could make to the point, how Front Page should  
12 attack a problem this week or next week.

13 MR. ZAUNER: Your Honor, I have nothing further.

14 JUDGE SIPPEL: All right. On redirect would you  
15 like a few minutes to get your questions in order? We could  
16 break for five minutes or so.

17 MR. HOWARD: Well, Your Honor, could we break for  
18 lunch? It's approaching the noon hour when you said that we  
19 would be --

20 JUDGE SIPPEL: How much redirect do you have in  
21 mind?

22 MR. HOWARD: I'm going over it now but I think I  
23 could shorten the process if we break for lunch and return.

24 MS. SCHMELTZER: Your Honor, I'd much prefer to  
25 finish this now.

1 MR. ZAUNER: Your Honor, I'd prefer to break for  
2 lunch. We're having -- if we could go off the record perhaps  
3 for a second?

4 JUDGE SIPPEL: All right. We'll go off the record,  
5 sure.

6 (Off the record.)

7 (On the record.)

8 JUDGE SIPPEL: We're going to break until 1:15 and  
9 based on what Mr. Howard has proffered, this witness will not  
10 be on the stand -- should not be on the stand really for much  
11 more than an hour and even with recross, an hour and a half  
12 even and that's not going to interfere with your flight  
13 schedule out this evening, right, Mr. Kleiner? You don't have  
14 any objection for breaking --

15 MR. KLEINER: I'm okay.

16 JUDGE SIPPEL: And I also have an understanding with  
17 Mr. Howard that there will be no questioning or discussion of  
18 testimony with this witness during the break. We will -- in  
19 other words, you are still on the stand. You're still under  
20 oath and of course particularly do not discuss any facet of  
21 your testimony with Ms. Barr.

22 MR. KLEINER: Yes, sir.

23 JUDGE SIPPEL: That's it. We're in recess until  
24 1:15.

25 (Whereupon, at 11:53 a.m. the hearing recessed to  
reconvene at 1:15 p.m.)

## AFTERNOON SESSION

JUDGE SIPPEL: Okay. We're on the record. I'm just going to briefly announce at this time that although I'm reducing this to writing, I'm in the process of getting an order out on that perhaps even late this afternoon, but certainly by Monday morning. I have determined that the Exhibit 5 evidence is not going to be -- I'm not going to receive it and for three basic reasons and I've done an analysis of the letters.

One is that as is stated in paragraph 33 of the Fox TV decision the review board upheld the preclusion, that is the trial judge's ruling precluding the receipt into evidence of exhibits that would demonstrate widespread community dissatisfaction over the cancellation of the contract of a popular newscaster. Now, the letters that I have reviewed in that -- in Exhibit 5 come -- in my judgment they come within that category.

In other words, they do not address the non-entertainment, the public interest, the community ascertainment aspect of the issue in my judgment. In addition, those letters that are outside the renewal period, i.e. September 3, 1991 I am not considering because they're just not relevant from a time standpoint.

So I'm, as I say, I'm in the process of reducing this to writing. I'm well along in it but I thought I should

1 since I am committed to this that I should let everybody here  
2 know today and I will let counsel know as to when it's  
3 available. If not -- if this afternoon, otherwise I will  
4 bring it in Monday and distribute it.

5 (Whereupon the document referred to  
6 as Four Jacks Exhibit No. 5 was  
7 rejected.)

8 JUDGE SIPPEL: All right. Mr. Kleiner's on the  
9 stand and we're ready for redirect.

10 MR. HOWARD: Your Honor, there's a -- may I have a  
11 preliminary matter?

12 JUDGE SIPPEL: Yes, sir.

13 MR. HOWARD: You asked us to investigate the  
14 circumstances of the writing of this writing on this letter  
15 and I just wanted to report that the secretary who has -- in  
16 whose writing these notes are made is no longer in the  
17 employee of WMAR. This is exhibit number -- Four Jacks  
18 Exhibit No. 25.

19 JUDGE SIPPEL: Twenty-five for identification.  
20 She's no longer with the company?

21 MR. HOWARD: That's correct. But she was asked  
22 before and I can report my understanding of what she said is  
23 that she did not recall the time that these were put in.

24 JUDGE SIPPEL: She did not recall the time that they  
25 were put in.

1 MR. HOWARD: Yes, that these marks were made.

2 JUDGE SIPPEL: Would you be able to proffer any  
3 other information with respect to the date that this  
4 information was -- well, that the notations were made?

5 MR. HOWARD: I'm sorry. I have not checked with the  
6 phone company with the 410 but its our recollection as well  
7 that that occurred after the renewal period.

8 JUDGE SIPPEL: All right. To the extent that you  
9 can -- I understand that what you're giving me is just a  
10 proffer, that is, if people were brought in to testify this is  
11 what it would show. If you would, I hate to rely on my own  
12 recollection but I am very, very sure.

13 MR. HOWARD: We will have an absolute answer for you  
14 on Monday, Your Honor.

15 JUDGE SIPPEL: Thank you. Then it's your witness  
16 for redirect, Mr. Howard.

17 MR. HOWARD: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HOWARD:

20 Q Mr. Kleiner, on cross examination your activities  
21 with respect to various aspects of WMAR's operations was  
22 examined. Could you explain or would you like to explain  
23 further how you saw your role as the general manager of  
24 station WMAR?

25 A Yes. As general manager, we think in terms of the

1 title general manager, I generally managed, was not a specific  
2 manager. I did an awful lot of delegating. I did not run the  
3 sales department. I did not run the news department.

4 I did not run the programming department. I had  
5 people who did that. They reported to me on a daily basis or  
6 more often about what was going on and I generally managed by  
7 exception. When there was a problem I got involved.

8 When I had an idea I got involved. But as long as  
9 everything was going all right I did not meddle. I let people  
10 do their jobs.

11 Q Would you explain how those daily interactions with  
12 your managers took place?

13 A Either in my offices or theirs. I did something  
14 that's commonly referred to as MBWA, manage by walking around.  
15 I walked through the building probably no less than three  
16 times a day everywhere in the building and always felt that if  
17 you wanted to know what was going on you had to get out to  
18 find out yourself. And we had weekly meetings, daily  
19 meetings, meetings in my office, luncheon meetings. That's  
20 how the day went.

21 Q With respect specifically to public affairs  
22 programming, would you describe how you kept track of that  
23 activity?

24 A Um-hum. I would talk to the producers often, the  
25 host often. Ms. Barr and I would have conversations often.



1 We would deal with -- very seldom did we get down to minute  
2 subject matter. I would say to Ms. Barr, do you think this  
3 would be a good topic for To The Point or Front Page. I would  
4 say to the news director, you know, I've been talking to  
5 people and I've been hearing a lot about -- I'll make  
6 something up -- male positive images in the African-American  
7 community, maybe there's a story there for us. And it would  
8 become a part of a news story possibly.

9 Q Could you explain how that might occur specifically  
10 with either an example from the renewal period or if you don't  
11 recall, a hypothetical?

12 MS. SCHMELTZER: I'm going to object to the extent  
13 that this seems to go beyond cross examination. It's  
14 referring to, you know, a hypothetical that was not delved  
15 into in cross examination.

16 JUDGE SIPPEL: Well, I'll sustain the objection in  
17 two ways. One, that it's a double -- there are really two  
18 questions being asked at the same time and secondly, I won't  
19 permit him to respond to hypotheticals. But you may ask him  
20 -- your other half of the question was -- if I recall it was  
21 an explanation of -- well, you, maybe -- you rephrase your  
22 question with my ruling.

23 MR. HOWARD: Yes.

24 BY MR. HOWARD:

25 Q Mr. Kleiner, would you refer to the attachment